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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

MICAELA H.,

Defendant and Appellant.

Nos. A154648, A155600

(Contra Costa County Super. Ct.
No. J1600619)

In this consolidated appeal, minor Micaela H. (Minor) challenges the Contra Costa County juvenile court’s order that she be committed for her maximum custodial time, not to exceed her 21st birthday, to juvenile hall and successfully complete the “Girls in Motion” program (GIM) under the probation department’s supervision, although the program can be completed in five and a half months. Minor argues the court’s order improperly ceded its judicial authority to the probation department to define the duration of Minor’s GIM commitment in violation of Minor’s federal and state constitutional due process rights.

Minor concedes that her appeal is technically moot because the court has already ordered her released from the custodial part of GIM. She argues that regardless, we should decide her appeal because she presents a recurring issue of broad public interest, since the juvenile court’s commitment of girls to GIM in the same manner as it committed Minor is purportedly “standard” in Contra Costa County. She contends that “[r]eview is appropriate to provide guidance to juvenile courts in Contra Costa County

and throughout California.” We decline to exercise our discretion and dismiss her appeal as moot.

BACKGROUND

In December 2016, the Contra Costa County District Attorney filed a juvenile wardship petition under Welfare and Institutions Code section 602 alleging that Minor, 16 years old, committed a misdemeanor by possessing a weapon on school grounds (Pen. Code, § 626.10, subd. (a)). Minor pleaded no contest to this allegation.

The district attorney filed a supplemental petition in March 2017 to allege that Minor also committed a misdemeanor battery on school property (Pen. Code, §§ 242, 243, subd. (a)). This supplemental petition was later amended, apparently to add two counts. After Minor twice failed to appear in court, resulting in the issuance of a bench warrant for her arrest (which was later recalled), she pleaded no contest to a single allegation of violating Penal Code section 415, disturbing the peace by fight, and the remaining counts were dismissed.

The court sustained the allegations to which Minor pleaded no contest, adjudged her a ward of the court and ordered her placed under home supervision subject to probation conditions. Minor violated probation conditions multiple times, including by stealing alcohol from a store, leaving home without permission and twice cutting off her ankle monitor. In February 2018, the juvenile court ordered Minor placed in juvenile hall and required that she successfully complete all “motions,” or steps, of GIM. The court found that Minor’s maximum period of confinement was 297 days or until she turned 21 years of age, whichever came first, and awarded her 67 days of credit for time served. The court scheduled a review hearing for July 2018.

According to a “draft” GIM handbook that Minor relied on below, the mission of GIM is “to provide a safe and structured environment . . . using the Behavioral Management System,” with the goal of providing “residents with the necessary skills, education, and training to help facilitate a successful return to their families.” The length of a minor’s GIM program is “defined by the ability of each resident to reach personal

objectives, complete their assigned treatment classes and successfully work through the motions (steps) of the program.”

GIM’s “motions” are comprised of four graduated steps that act as a working scale of each resident’s potential. According to the GIM handbook, “[t]he time spent in ‘Girls in Motion’ is determined by successful completion of each of the four motions which can typically be accomplished within a period of 5-6 months. A resident’s individual program length will depend on their individual progress towards completing treatment goals, and their ability to reach personal objectives, complete assigned treatment classes and successfully work through the motions (steps) of the program.

“In preparing the recommendation for commitment to the program, the investigating probation officer will recommend that the resident be committed to the program for their maximum custody time allowed based on the resident’s sustained charge(s) or a period not to exceed their 21st birthday. A court review of the resident’s progress will be set for 5 months from the date of program commitment. At the 5 month court review, the probation officer will notify the court of the resident’s progress in the program and the anticipated time remaining time [*sic*] until treatment goals are completed.”

In April 2018, Minor was removed from GIM for attempting to join in a fight between two other GIM residents. The juvenile court found her misconduct to be a parole violation and ordered Minor to return to GIM and successfully complete it. At the probation violation hearing, minor’s counsel raised a concern regarding “the way that YOTP [Youth Offender Treatment Program] and Girls in Motion commitments work,” stating that she “[did not] think that an indefinite commitment [was] appropriate” because GIM was a four- to five-month program and thus Minor’s commitment should be for that same period of time. Minor’s counsel argued that “the [c]ourt has exceeded [its] authority with [the] extent of extending commitments, and the way YOTP and Girls in Motion is structured . . . is problematic,” in part because the probation department had authority to extend minors’ commitment to GIM based on the minors’ performances regarding GIM’s motions. The court responded that based on Minor’s history, GIM was

the most appropriate program for her, and that it could not impose a more finite length of commitment because time in GIM was “dependent on each individual minor’s ability to progress through the different phases. That’s the nature of the program.”

In May 2018, Minor engaged in another fight, which the court found was another probation violation. At the probation violation hearing, Minor’s counsel renewed her concern about Minor’s purported indefinite commitment to GIM without further court review. The court ordered Minor to return to GIM and successfully complete it, and that her commitment was not to exceed the maximum time of 188 days. It set aside the July 2018 review hearing and set a new review hearing date for October 2018. Minor filed a timely appeal from this order in case number A154648.

In October 2018, the court issued another order, including that Minor’s custodial release from GIM take place by October 17, 2018. Minor filed a timely appeal from this order in case number A155600.

We subsequently granted Minor’s unopposed motion to consolidate her two appeals.

DISCUSSION

It is a court’s general duty to decide actual controversies, and not to give opinions upon moot questions or abstract propositions. (*In re David B.* (2017) 12 Cal.App.5th 633, 644.) Even if an action is moot, pursuant to established exceptions, an appellate court may nevertheless exercise discretion to address the merits of an appeal if the case presents a broad public interest that is likely to recur. (*Ibid.*)

Minor urges us to decide her appeal although it is technically moot. She contends that the standard practice in Contra Costa County is for the juvenile court to delegate authority to the probation department to indefinitely extend a girl’s commitment to GIM without court review, making the issue she raises one of broad public importance that is likely to recur if we do not address it. We have multiple problems with her argument.

First, the record does not support Minor’s assertion that the court committed her indefinitely to GIM under probation department supervision and without further court review. The record indicates the court scheduled review hearings upon committing and

recommitting Minor to GIM. Further, the GIM handbook on which Minor relies states that the court will review the case of a minor placed in GIM after five months. And in any event, if a minor disagrees with a probation officer's assessment of her progress, she may file at any time a petition requesting the court modify its disposition order. (*In re J.C.* (2019) 33 Cal.App.5th 741, 747; Welf. & Inst. Code, § 778, subd. (a)(1).)

Second, the length of a girl's commitment to GIM is fact-specific. For example, the GIM handbook states that the length "will be defined by the ability of each resident to reach personal objectives, complete their assigned treatment classes and successfully work through the motions (steps) of the program." We are disinclined to exercise our discretion to consider a technically moot matter when the claim involves "a particularly factual determination that must be resolved on a case-by-case basis, dependent upon the specific facts of a given situation." (*Giles v. Horn* (2002) 100 Cal.App.4th 206, 228 [declining to consider an appeal alleging contracts violated a county charter after the contracts had expired].)

Third, Division Five of this district has recently addressed a very similar argument regarding a minor's commitment to Contra Costa County's Youth Offender Treatment Program, or YOTP, which Minor's counsel mentioned along with GIM in stating her objections below. (See *In re J.C.*, *supra*, 33 Cal.App.5th at p. 747 [Division Five analyzing a similar argument regarding a commitment to YOTP].) Even though Minor contends *In re J.C.* was wrongly decided, its publication makes it unnecessary for us to address Minor's contentions for lack of legal authority to guide similar juvenile court practices otherwise.

DISPOSITION

Minor's consolidated appeal is dismissed as moot.

STEWART, J.

We concur.

KLINE, P.J.

RICHMAN, J.

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